

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID STEBBINS, d.b.a. ACERTHORN

PLAINTIFF

VS.

Case 3:21-cv-04184-JSW

KARL POLANO, d.b.a. SOFIANNP, ALPHABET INC.,
DISCORD INC., FACEBOOK INC.,
FREDERICK ALLISON, d.b.a. INITIATIVEKOOKIE, and
RAUL MATEAS, d.b.a. TGP482,

DEFENDANTS

MOTION FOR PRELIMINARY INJUNCTION

Comes now, *pro se* Plaintiff David Stebbins, who hereby submits the following motion for a preliminary injunction to enjoin the individual defendants from submitting any DMCA Counter-Notifications for the duration of this case, but to instead address all further grievances against me with the court.

1. On August 28, 2021, I issued a DMCA Takedown Notice against Polano's twitch channel, found at twitch.tv/sofiannp. On August 31, 2021, I received notice of his DMCA Counter-Notification in regards to that takedown. To prevent the infringing stream from being automatically reinstated, I was forced to file a Motion for Leave to File a Second Amended Complaint. Once I filed that motion, Twitch agreed not to reinstate the video.

2. If left to his own devices, it is clear that Polano will continue to post infringing content, and whenever I issue a takedown against the infringement, he will provide a counter-notification. This means that, to prevent the content from being reinstated, I will have to either file an entirely new lawsuit (which will result in extra unnecessary legal costs, as well as piecemeal litigation) or a new amended complaint (which will stay the resolution of this case). If he keeps doing this over and over again, we may have to stay the case indefinitely.

3. To prevent Polano from being able to use this tactic as a means of indefinitely staying off final judgment in this action, I ask the Court to issue a preliminary injunction ordering him not to issue any DMCA Counter-Notifications for the duration of this case.

4. I have a strong likelihood of success on the merits, since one of the individual defendants (Raul Mateas) has admitted that the infringements are not fair use. The balance of equities tips in my favor almost exclusively, since the individual defendants are, by their own admission, acting in egregious bad faith. Finally, this preliminary injunction is in the public interest because it is necessary to ensure this case does not get delayed with unnecessary amended complaints or that the issues being litigated are not subject to piecemeal litigation.

5. The Court can actually rule on this motion much more quickly than it otherwise would be able to if it were to serve the individual Defendants (Polano and Mateas) with copies of this motion via electronic means by emailing them (as well as a signed copy of the second proposed

order) to their email addresses at sofiannp@hotmail.com and raulmateas20@gmail.com. This is not unprecedented in this court, and the individual defendants are already following this case of their own accord anyway.

6. Please find, attached to this motion, the following documents:

- (a) A copy of the Second Amended Complaint, as required by Civil Local Rule 65-1(a)(1).
- (b) A memorandum of points and authorities in support of the motion, as required by Civil Local Rule 56-1(a)(2),
- (c) A proposed temporary restraining order, as required by Civil Local Rule 65-1(a)(3),
- (d) **Exhibit A**, a copy of the email notification I received upon submitting my DMCA Takedown on August 28, 2021.
- (e) **Exhibit B**, a copy of the email notification I received later that same day, notifying me that the infringing content had been taken down.
- (f) **Exhibit C**, a copy of the email notification I received on August 31, 2021 of the DMCA Counter-Notification submitted by Polano.
- (g) **Exhibit D**, a copy of the counter-notification I received from Polano on May 25, 2021.
- (h) **Exhibit E**, a DMCA Takedown I filed with Youtube on September 14, 2021 against a Youtube channel named "Greg."
- (i) **Exhibit F**, a Counter-Notification issued in response to Exhibit E, where the alleged infringer identified himself as British citizen Raul Mateas.
- (j) **Exhibit G**, an email sent to me by Mateas where he also identifies himself by his primary online pseudonym, TGP482.
- (k) **Exhibit H**, an email sent to me by Mateas where he admits that Polano's case for fair use is extremely poor.
- (l) **Exhibit I**, an email sent to me by Polano over private email, where he admitted that his goal with all of this is to ruin my career on social media.
- (m) **Exhibit J**, a Discord message sent to me by Frederick Allison where he admits that he will persist in harassing me, doxxing me, and ruining my social media career.
- (n) A proposed order, ordering the clerk to deliver the defendants Polano and Mateas with a copy of this pending motion electronically, by sending it to their email addresses of

sofiannp@hotmail.com and raulmateas20@gmail.com, and ordering them to respond within 14 days.

7. Wherefore, premises considered, I respectfully ask the Court to enjoin the individual defendants in this case from issuing any further DMCA Counter-Notifications against me for the duration of this case, and instead address all subsequent grievances they may have against me with the court.

So requested on this, the 17th day of September, 2021.

/s/ David Stebbins
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